



U.S. Department of Justice

United States Attorney's Office

Eastern District of Virginia

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Alexandria, Virginia 22314

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December 17, 2004

Edward B. MacMahon, Jr.
P.O. Box 903
107 East Washington Street
Middleburg, Virginia 20118

Re: U.S. v. Al-Timimi, Crim. No. 1:04cr385; Discovery Letter #7

Dear Ed:

1. In accordance with our discovery obligations in this case, this letter is to notify you that we understand that Masoud Khan has asserted that his recollection of the events of the meeting with Al-Timimi on September 16, 2004, is consistent with that of Randall Royer. We do not know whether Khan's assertion referenced the recollection as to which Royer testified in the grand jury (in which Royer testified that Al-Timimi encouraged his listeners to go fight in Afghanistan) or whether it referenced the recollection as to which Royer had previously stated that Al-Timimi did not encourage his listeners to go fight in Afghanistan.

By disclosing the material contained in this letter, we obviously do not concede that it is, in fact, exculpatory, much less admissible, relevant, or admissible.

2. In the pleading that you filed on September 8, 2004, in support of your motion for access to Guantanamo detainees, you supplied the Court with copies of *Washington Post* stories from September 13, 2001, September 16, 2001, September 17, 2001, September 18, 2001, and September 19, 2001, to show that Omar did not call for help. While I am not convinced that these articles are in fact exculpatory for Timimi, I agree to the admission of these articles into evidence.

3. As I stated in Discovery Letter #6 (the header of which on pages 2, 3 and 4 unfortunately identified itself as "Discovery Letter #5"), I am providing you herewith for your use in the SCIF a set of discovery the documents under the condition that - - absent specific consent in writing from me - -they may not be copied again and that they may not be taken out of the SCIF except to return them to me. As I previously noted, the materials in those discovery binders now include additional material that was not in them when last you saw them. This new material consists of:

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Statement re: Hasan by Crown Prosecution Service	Nov 19, 2004	1	03331
Statement of Hasan to Australian police	Nov 17, 2004	1	03332
Statement of Hasan to British police	December 3, 2004	4	03333-03336
Statement re: Kwon by Crown Prosecution Service	Nov 19, 2004	1	03337
Statement of Kwon to British police	December 3, 2004	9	03338-03346
Statement of Kwon to Australian police	Nov 17, 2004	2	03347-03348
Filings for Rule 35 Motions for Aatique, Kwon, Hasan & Surratt	Oct 7, 2004	4	03349-03352
Grand jury testimony of Randall Royer, E.D. Va.	June 22, 2004	13	03353-03365
Proffer Letter from Kromberg to Hantash	June 5, 2003	2	03366-03367
Grand jury testimony of Caliph Abdur-Raheem	April 28, 2004	28	03368-03395
Grand jury testimony of Wade Ammerman	September 23, 2004	39	03396-03444

4. Be aware that what your client said on September 11, 2001 will be introduced to show intent and absence of mistake.

Thank you for your cooperation.

Sincerely,

Paul J. McNulty
 United States Attorney

By: _____
 Gordon D. Kromberg
 Assistant United States Attorney